

REMARKS

Claims 2-13, 15, 16, 22-36, 39-44, and 50-56 are pending. Claims 1, 14, 17-21, 37-38, and 45-49 were cancelled previously.

35 U.S.C. 102(e)

That “an application has named a different inventive entity than a patent does not necessarily make that patent prior art.” *Applied Materials Inc. v. Gemini Research Corp.*, 835 F.2d 279, 281 (Fed. Cir. 1988). “Even though an application and a patent have been conceived by different inventive entities, if they share one or more persons as joint inventors, the 35 U.S.C. § 102(e) exclusion for a patent granted to ‘another’ is not necessarily satisfied.” *Id.* Rather, “when the unclaimed subject matter of a reference is applicant’s own invention, applicant may overcome a *prima facie* case based on the patent . . . by showing that the disclosure is a description of the applicant’s own previous work.” MPEP 2136.05. Such a showing can be made “by submission of an affidavit by the inventor under 37 C.F.R. 1.132.” *Id.*

Thus, the Applicants submit herewith a Declaration Under 37.C.F.R. § 1.132 by Samuel Weiss, stating that Dr. Weiss is the inventor of the subject matter of the pending claims and that the other co-inventors listed on U.S. Patent No. 7,048,934, did not contribute to the conception of the subject matter of the present claims. This Declaration is believed to remove the cited patent as prior art under 35 U.S.C. § 102(e), thus, the Applicants request that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Conclusion

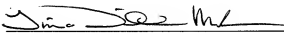
For the reasons set forth above, the Applicants submit that the claims of this application are allowable. Reconsideration and withdrawal of the Examiner's rejections are hereby requested. Allowance of the claims remaining in this application is earnestly solicited.

In the event that a telephone conversation could expedite the prosecution of this application, the Examiner is requested to call the undersigned at 404-892-5005.

No fees are believed to be due with this Amendment, however, please apply any charges or credits to deposit account 06 1050.

Respectfully submitted,

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Tina W. McKeon
Reg. No. 43,791

Fish & Richardson P.C.
1180 Peachtree Street, N.E.
21st Floor
Atlanta, GA 30309
Telephone: (404) 892-5005
Facsimile: (404) 892-5002